

Basin Plan Triennial Review Public Workshop

Summary of Public Comments/Questions

San Francisco Bay Water Board
Oakland, CA
May 19, 2008

I. Background

The San Francisco Bay Water Board (Water Board) staff is conducting its Triennial Review of the Water Quality Control Plan for the San Francisco Bay Basin (Basin Plan). The Water Board held a public workshop from 1:00 p.m. to 3:00 p.m. on Monday, May 19, 2008 at the Elihu Harris State Office Building. Approximately 20 representatives from public agencies, environmental organizations, and other members of the public attended.

The goals of the meeting were to:

1. Update stakeholders on the Triennial Review Process
2. Present general topics for consideration in the Triennial Review
3. Solicit comments from the public and regulated community on the potential scope of basin planning projects that should be priorities for Water Board staff.

Naomi Feger, Section Leader of Basin Planning for the Water Board opened up the workshop by reviewing the agenda, and providing an overview of the purpose of the workshop. She gave a presentation on the Triennial Review process and discussed the topics currently under consideration by staff as priority projects. An issue paper is available to the public, outlining the topics under consideration and can be found at the following website:

http://www.swrcb.ca.gov/sanfranciscobay/basin_planning.shtml#triennialreview.

The presentation was followed by a question and answer/comment session. The public was encouraged to submit comments in writing by the close of business, May 30, 2008. It was made clear that the comments could be submitted by email and that the public was welcome to contact any of the Basin Planning Division staff present at the meeting (Naomi Feger, Janet O'Hara, or Michael Rochette) with questions.

II. Summary of questions, comments, and responses [where possible the commenter is identified by name]

Larry Johmann, Guadalupe Resource Conservation District - What are the criteria for adding a beneficial use for a particular water body?

Staff response – There are no defined criteria. Adding a beneficial use to the Basin Plan is based on an evaluation of information documenting existing uses for a waterbody. In terms of adding a specific beneficial use, it would depend on what information is available or what information could be acquired. As the update proceeds we will clarify the criteria and the public will have an opportunity to comment on whatever approach we develop as part of the basin plan amendment process. Steve Moore, former Board staff person and a current Board member, has done some

work on this issue and drafted a memo detailing an approach to defining some of the beneficial uses. We will make this memo available to anyone that requests it.

Larry Johmann, Guadalupe Resource Conservation District - Does a beneficial use apply to an entire waterbody, or only a particular reach?

Staff response: a beneficial use can vary by reach. However, in the absence of defined beneficial uses, the tributary rule applies, which means that all upstream reaches have to be managed to protect downstream beneficial uses.

Nancy Yoshikawa, U.S. EPA – U.S. EPA is still concerned about issues relating to the MUN beneficial use as it applies to some creeks that are receiving waters for NPDES dischargers.

Staff response: This is one of the issues that we plan to address in the Beneficial Use update project.

Tom Hall, EOA, Inc. - Is there a workplan for the statewide shellfish harvesting beneficial use evaluation?

Staff response: A contract scope of work is being finalized by State Board staff and should be available soon. Staff will send the scope of work to Mr. Hall as soon as it is made available to them.

Nancy Yoshikawa, U.S. EPA - When will written comments be due on May 30?

Staff response: Comments are due COB, and may be submitted by email.

Comment - Please explain the relation between the Basin Plan and The California Water Plan update.

Staff response: We are working with the Department of Water Resources to provide them with information about issues in the region. After the update of the Water Plan is completed, we would figure out whether our region's Basin Plan needs any modifications to reflect the Water Plan.

Ken Minn, East Bay Municipal Utility District (EBMUD) – Mr. Minn would like to see the Basin Plan include language to address future shortages in water supply and make it easier to pursue water storage projects. Please elaborate on what can be done in the Basin Plan to make it easier to pursue water storage projects, such as EBMUD's recently permitted aquifer storage and recovery project.

Staff response: We can explore the possibility of amending the Basin Plan to address this concern. Tom Hall suggested looking at the Livermore/Amador Valley Salt Management Plan discussion in the Basin Plan, as a possible example.

Larry Johmann, Guadalupe Resource Conservation District – Mr. Johmann asked about our proposed basin planning project to address marine debris. He asked if it would address debris in the creeks or only debris in the bay and suggested that we consider how the debris gets into the streams (storm drains, illegal dumping, homeless encampments, etc.)

Staff response: the goal of this project is to make it clear that the purpose of the prohibition is to protect aquatic life and to make clear the link between trash in the creeks and trash in the bay and the ocean.

Chris Sommer, EOA, Inc. – Mr. Sommers wanted to make it clear that there are efforts at the state level, through SWAMP, to establish a statewide Indices of Biologic Integrity (IBIs) and to encourage consistency between our project and state efforts.

Staff response: This project would be coordinated through our SWAMP coordinator, Karen Taberski, and thus will be consistent with State efforts.

Comment - How do we find out what additional water bodies will be identified and included in the Basin Plan?

Staff response: Please contact Jan O'Hara if you have specific questions. As the project develops there will be an opportunity to include public input.

Larry Johmann, Guadalupe Resource Conservation District - Comment - Will the Stream Protection Policy be folded in to the Basin Plan? Can issues concerning flow and beneficial uses be addressed in the Basin Plan.

Staff response: Yes, the stream protection policy will be a Basin Plan amendment once it is adopted and approved. In the proposed project there is a hydrologic connectivity water quality objective that would address flow and its effect on beneficial uses.

Comment - Please comment on staff resources.

Staff response: Our priority list of projects exceeds our available resources to complete it. We are allocated two staff from the State Board to work on Basin Planning, and we leverage resources from other divisions as well as resources outside of the agency, for example EPA and dischargers, to get projects completed. There is always the possibility that more resources will become available, so it's always in our interest to have a longer list. One ranking criterion for these projects is whether outside resources are available.

Comment - Is it your intent to carry forward the projects from the 2004 review?

Staff response: We have reviewed the original list of projects from the last Triennial Review and determined that except for those projects identified in the issue paper, the other projects are no longer necessary. Most of these projects are NDPES related and can be addressed through the permit process.

Nancy Yoshikawa, U.S. EPA - Who will work on WET (whole effluent toxicity) provisions/protocols for NPDES permits; will that be the Region or the State?

Staff response: State Board staff is working with U.S. EPA to address the new statistical methods in development by U.S. EPA. California is one of seven state pilot projects evaluating these methods. State Board will work on modifying the SIP based on this effort.

Comment - What is your ranking for the projects you have identified thus far for the Triennial Review.

Staff response: We have not conducted any of the ranking effort.

Comment – How does the ranking process work? What are the criteria? Will there be a public process?

Staff response: The categories from the last triennial review are listed in the 2004 staff report. They include available staff and external resources; customer service; regional board mission; geographic scope; low controversy, low technical complexity; input from divisions.

Multiple Comments – The Basin Plan talks about surveillance and monitoring. Yet, there is nothing clear about enforcement actions to be taken when a beneficial use is severely impacted. How does a citizen report complaints/problems they see in the watershed? Often the person reporting on a problem doesn't hear whether it is addressed.

Staff response: Staff explained some of the steps we are taking internally to improve our reporting and notification procedures. We have a reporting form on our website. We are also reorganizing to create an enforcement unit.

Comment - How is Board staff interacting with DFG or USFWS when there is a spill event? How does spill response work? At what point do we work with the County District Attorney?

Staff response: DFG is generally the primary responder for oil spills. They have an Office of Spill Prevention and Response. We generally have a good working relationship with DFG and the USFWS. Agencies respond using the Incident Command System developed by the Coast Guard. We can and do refer cases to the District Attorney when we need to, and we give them the option of taking an action in lieu of us or along with us.

Karl Hans, U.C. Berkeley - Suggested a public database where people can log incidents and see the status of a complaint and response, as well as a history of which contractors have violations.

Larry Johmann, Guadalupe Resource Conservation District – Noted that the SCVWD has such a database but it's selective.

Staff response: This is something we can look into. However, some of the concerns being discussed, like fallen trees in the creeks, are under the jurisdiction of the local public works department. We do have a spill response database. We generally refer a complaint to a local

inspector who should get back to the complainant. The Office of Emergency Services does have a public log of spills, but it doesn't include responses.

Comment - The Basin Plan has a role as an educational tool.

Staff response: we could consider adding more informative (as opposed to strictly regulatory) language to the Basin Plan.

Comment - When will we be able to receive hard copies of the Basin Plan of a fully updated Basin Plan?

Staff Response: The State Board is planning on providing resources to reformat all the regions' Basin Plans and updating them. In the meantime there are files posted on our website http://www.swrcb.ca.gov/sanfranciscobay/basin_planning.shtml#2004basinplan that the public can print and download. We are also working to make it clear on the website which Basin Plan amendments have been approved.

III. Conclusion

Naomi Feger thanked everyone for coming and participating in the workshop.